SINGLE BENCH

C.S. 1001

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**IN THE HIGH COURT OF JUDICATURE AT BILASPUR**

W. P .No. 3107 2005

PETITIONER

M/s. H.S.R. RE-ROLLERS
Urla Industrial Area,
Raipur, Distt- Raipur (C.G.)
Through : Its Partner Anil Agrawal.
S/o Shri M.L. Agrawal
Aged about 32 years.

VERSUS

RESPONDENTS

COMMISSIONER
Central excise & Customs,
Central RevenueBuilding,
Civil Lines, Raipur (C.G.)

..No. 2181 05
..resented by Shri. Virodi
dated 2.05.05

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**आदेश पत्रक** 41

**मामला क्रमांक** W.P.3107/ **सन्** 2005

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|
| | 25-7-2005<br>Mr. Virendra Sharma, counsel for the petitioner.<br>Mr. Gautam Bhaduri, Central Government Counsel for the respondent.<br>Heard on admission.<br>By the instant writ petition under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a direction to the Commissioner, Central Excise & Customs, to pass final order at the earliest.<br>The case of the petitioner is that he is the manufacturer of hot re-rolled products of non-alloy steel. Section 3-A of the Central Excise Act, 1944, was made applicable to the manufacturers of hot re-rolled products of non-alloy steel. On 1-9-1997, the petitioner filed an application before the respondent regarding change in production capacity of the petitioner's re-rolling mill with effect from 1-10-1997. The respondent allowed the petitioner to change the size and capacity of hot re-rolled mill vide order dated 24-10-1997. Based on that the petitioner requested the respondent on 28-10-1997 to re-determine the duty liability from 1-11-1997 on pro-rata basis on the strength of approval for change in parameters as granted by the respondent. The petitioner vide letter dated 25-11-1997 requested the respondent to re-determine the duty liability. The respondent issued letter dated 4-12-1998 wherein he determined the annual capacity of the hot re-rolling mill of the petitioner, and in that letter he calculated the capacity of the re-rolling mill as per the above referred formula at 1157 | |

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

42

मामला क्रमांक W.P.3107/ सन् 2005

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित -2- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|
| | Metric Tonnes per annum. In the above said letter the respondent discussed and relied upon the actual annual production figure of 1997, which is mentioned as 9474.365 Metric Tonnes. Now, making that formula as base the respondent has fixed the annual production capacity to higher figure and accordingly, the demand was raised as Rs.1,18,430/- per month. The capacity of the re-rolling mill as per the formula was 1157 Metric Tonnes per year and the monthly Central Excise duty comes to Rs.14,462.50 ps. whereas, the Excise duty fixed by the respondent was Rs.1,18,430/- which is eight times than the actual leviable duty. The approach of the respondent is highly arbitrary and irrational. The respondent directed the petitioner to deposit the said amount.<br><br>If the petitioner has any grievance against the order of Excise Commissioner, the petitioner is at liberty to approach the appellate Tribunal as per the provisions of Section 35 of the Central Excise Act, 1944. There is already an alternative remedy available to the petitioner.<br><br>Therefore, in view of the fact that alternative remedy is available to the petitioner, the petition stands dismissed in limine.<br><br>Consequently, I.A.Nos.6075/2005 and 6077/2005 stand disposed of.<br><br>**Sd/-**<br>**L.C.Bhadoo**<br>**Judge** | |

Soma

(पीछे देखिये)

1.8.05
6.8.05